THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 15778 of 2007

Dated: 01.11.2007

Between:

Nedurumalli Anithamma
& 36 others.

... Petitioners

AND

The Government of A.P., rep., by its
Secretary, Revenue (L.A) Department,
Secretariat, Hyderabad
& others.

... Respondents

Counsel for the petitioners : Sri Y. Rama Rao

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 15778 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to declare notification dated 02.07.2007 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), as illegal and arbitrary.

Heard Sri Y. Rama Rao, learned counsel for the petitioner and the learned Assistant Government Pleader for Land Acquisition and perused the record.

The lands of the petitioners are sought to be acquired for the purpose of excavating the 5th Branch Canal under Karlapudi Major (18 T.E.).

When this writ petition came up earlier, this Court adjourned the same to enable the learned Assistant Government Pleader for Land Acquisition to ascertain the present stage of execution of work and the possibility of holding an enquiry at this stage.

Learned Assistant Government Pleader on instructions submitted that except the portion of the work relating to the lands on which the canal is proposed to be excavated, the execution of work in other portions has been completed.

Since the part of the work on the lands, proposed to be acquired, belonging to the petitioners is not yet commenced, I deem it proper to direct the respondents to hold an enquiry under Section 5-A of the Act. I am inclined to give this direction for the reason that the grievance of the petitioners is that had their objections been heard, the respondents would have abandoned the

very proposal for execution of the work.

In **Hindustan Petroleum Corporation Limited v. Darius Shapur Chennai**[1] the Apex Court held that since the Act is expropriatory in nature, a citizen, whose lands are sought to be acquired, is ordinarily required to be heard before his lands are forcibly taken away by exercising the power of eminent domain unless the purpose of acquisition is of such emergent nature, which does not broke the delay of holding an enquiry under Section 5-A of the Act.

In view of the same, the declaration under Section 6 of the Act is set aside only to the extent of the petitioners and the respondents are directed to hold an enquiry under Section 5-A of the Act before proceeding further.

With the above observation, the writ petition is disposed of.

As a sequel to disposal of the writ petition, WPMP.Nos.20009, 23564 and WVMP.No.2352 of 2007, are disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

Date: 01.11.2007
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[1] AIR 2005 SC 3520